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The PRAIRIE FARMER *and* HIS DEBTS

WHAT IS IN THE PUBLIC INTEREST—
MORE OR LESS DEBT LEGISLATION?

Statement Issued
by
THE DOMINION MORTGAGE AND INVESTMENTS ASSOCIATION

THE DOMINION MORTGAGE AND INVESTMENTS ASSOCIATION is a voluntary association of life insurance, trust and loan companies. These companies are engaged in the business of gathering and investing the savings of the public. They have a substantial amount invested in farm mortgages in Western Canada. The real owners of these mortgages are several millions of Canadians, who, as policyholders, depositors and debenture holders, have entrusted their savings to these companies for safekeeping.

NOTE: Since this statement was prepared for publication, Hon. L. S. St. Laurent, Minister of Justice, has announced in the House of Commons that amendments to the Farmers' Creditors Arrangement Act will be introduced at this session of Parliament "to make it a more effective instrument and to extend its application to Manitoba as well as Saskatchewan and Alberta." In addition, an order-in-council has been passed along the lines of section 15 of the Saskatchewan Limitation of Civil Rights Act empowering the courts to stay foreclosure proceedings in order to "keep on the land in the western provinces every farmer who is an efficient food producer." The need for further debt legislation should be determined in the light of the facts set out herein.

THE PRAIRIE FARMER AND HIS DEBTS

Discussion of the request for enactment by the Dominion Government of legislation to scale down western farm debts.

REPRESENTATIONS have been made to the Dominion Government by the Alberta, Saskatchewan and Manitoba Governments and some western Farm Organizations requesting enactment by the Dominion of further legislation providing for the adjustment of farm debts in the prairie provinces.

Proposed Legislation Outlined

A draft act was submitted to the Dominion Government by a western delegation on March 15. Full details of the proposed act have not been made public but press reports indicate that it provides for the appointment of tribunals similar to the Boards of Review under the Farmers' Creditors Arrangement Act, though with greatly broadened powers. These tribunals are to have authority to:

(1) Write down the principal of farm debts, secured and unsecured.

(2) Reduce the rate of interest on farm debts, secured and unsecured.

(3) Alter the terms of payment of farm debts, secured and unsecured.

(4) Review and revise their own decisions in the light of subsequent events.

(5) Stay all legal proceedings and actions in regard to farm debts, whether or not an application for adjustment has been made and even if default occurs after an adjustment has been made.

(6) Make further adjustments in cases already dealt with by Boards of Review under the Farmers' Creditors Arrangement Act.

(7) Extend to individuals in any particular year or circumstances the protection of any of the provisions of this legislation available to any debtor whose affairs are being administered under it.

(8) Make the provisions of the legislation available to all farm debtors, irrespective of when their debts were incurred.

The proposed legislation, if enacted, would have very far reaching effects. It would virtually destroy farm mortgages. It would give farm debtors security of tenure at the expense of creditors. The proposal needs to be examined in light of the facts of the western farm debt situation—more especially the improved economic position of western farmers and the legislative protection which they now enjoy. What are the facts?

Farmers' Income Greatly Increased

No one will deny that western farmers experienced considerable distress during the depression years. But a tremendous change has taken place. Distress has now largely disappeared. Western farmers are now enjoying a substantial increase in cash income. They have the benefit of a more diversified and bountiful production. Farm cash income figures for each of the past five years are given below:

FARM CASH INCOME
(In Millions of Dollars)

	Manitoba	Saskatchewan	Alberta
1942.......	$100.1	$189.6	$172.5
1941.......	80.5	158.7	152.8
1940.......	64.1	149.4	125.9
1939.......	63.7	155.9	118.7
1938.......	62.8	90.2	132.3

The improvement in cash income is even greater than indicated by these figures which do not include bonus and subsidy payments made by the Dominion Government under various schemes including the Prairie Farm Assistance Act and the Wheat Acreage Reduction Policy. These payments total a substantial amount. For instance, the income of Saskatchewan farmers in 1942 from bonuses and subsidies totalled $31.5 millions as against $20 millions in 1941. Thus, total cash income of Saskatchewan farmers in 1942 was $221.1 millions as compared with $178.7 millions in 1941. Saskatchewan farmers may not be as well off as in the twenties, but they are rapidly nearing that position.

No Debt Problem in Manitoba

Manitoba farmers are now in the happy position of receiving greater cash income than they did in the prosperous period from 1926 to 1929. Their cash income in 1942, exclusive of bonus and subsidy payments, was $11 millions higher than in 1929 and almost $20 millions higher than the yearly average in the 1926-29 period. Then, again, the Manitoba Department of Agriculture estimates net production per farm in Manitoba at $2,247 in 1942 as against $1,298 in 1939. As these figures indicate, Manitoba farmers have as great, if not greater, debt-paying capacity than they had in the twenties. The simple truth of the matter is that there is no farm debt problem in Manitoba. In fact, the great majority of Manitoba farmers have reduced their debts substantially in recent years.

Alberta Up Over 1929

Alberta farmers are in the same favorable position as Manitoba farmers. Their cash income in 1942, exclusive of bonus and subsidy payments, was also $11 millions higher than in 1929. Taking into account bonus and subsidy payments it probably equalled the yearly average for 1926-29.

Cash income figures do not tell the whole story. There is a large quantity of grain in storage on the farms which, though not immediately marketable,

has substantial value. In addition, there has been a very great increase in the number of livestock on prairie farms. The table below shows the number of livestock on farms in Alberta, Saskatchewan and Manitoba as at December 1 in each of the past two years.

NUMBERS OF LIVESTOCK ON FARMS
As At December 1

	1942	1941
MANITOBA		
Hogs	696,000	511,200
Cattle	800,200	686,280
Sheep	191,700	150,570
Hens & Chickens	4,956,600	4,118,810
Turkeys	537,600	364,080
ALBERTA		
Hogs	2,269,700	1,836,700
Cattle	1,462,500	1,339,300
Sheep	684,400	590,310
Hens & Chickens	5,925,300	5,457,950
Turkeys	511,900	484,750
SASKATCHEWAN		
Hogs	1,368,000	1,005,500
Cattle	1,364,200	1,219,420
Sheep	313,700	252,840
Hens & Chickens	8,789,000	6,851,950
Turkeys	1,079,100	661,560

Translated into dollar values this increase in livestock population on farms shows a marked increase in farm assets. For instance, the Manitoba Department of Agriculture and Immigration estimates the value of livestock on Manitoba farms at the end of 1942 at $63.3 millions. This is an increase of $9.5 millions over the previous year. The improvement in the position of western agriculture is reflected in farm sales. There is an increased demand for farms at advancing prices.

Prairie Agriculture in Sounder Position

PRODUCTION DIVERSIFIED. More bountiful crops have been a factor in the improved position of western farmers, but even more important has been the trend in recent years toward greater diversification of production. As a result of this trend western agriculture is in a sounder position today than ever before. It is not nearly as dependent on one crop as formerly. In fact, wheat accounted for only 21.7% of the cash income of Manitoba farmers in 1942 as against 40.4% in 1929; in Saskatchewan the percentage was 39.4 in 1942 and 75.9 in 1929; and in Alberta, 24.2% in 1942 and 64.9% in 1929. Farm cash income from livestock and animal products in each of the three prairie provinces is now more than double what it was in 1929 and is increasing each year.

BANNER YEAR IN 1942. The suggestion that the Dominion should pass additional farm debt legislation follows a year of outstanding achievement for prairie agriculture. Prairie farmers produced a greater volume of foodstuffs in 1942 than ever before. Gross value of agricultural production amounted to $995 millions, the highest on record. Production was further diversified and the basis was laid for a further increase in cash income from livestock and animal products in 1943. While all the wheat grown cannot be marketed, substantially higher returns than the market price of wheat can be obtained by feeding it to livestock.

Farm Debt is Being Reduced

The majority of prairie farmers are using their increased income to improve their position by reducing their debts. Current operations are being conducted largely on a cash basis, implement debt has been greatly reduced and mortgage collections are substantially higher. Numerous farmers are paying off their mortgages entirely, some are reducing their mortgage debt by a large amount each year and others are putting their accounts in good standing. As a matter of fact, there has been a material reduction in recent years in the amount owing on farm mortgages in Manitoba and Alberta, and a more moderate reduction in the amount owing by Saskatchewan farmers.

Mortgage debt is a major handicap in only a relatively small proportion of farms. The 1936 census showed that over 50% of "the fully owned" farms in the prairie provinces have no mortgage debt. This percentage would also apply to the total number of farmers, for rented farms are less likely to be encumbered than farms owned by the operator. In any case, debt on a rented farm is not a burden to the tenant.

The survey entitled "Farm Mortgage Facilities in the United States" issued by the Farm Credit Administration of the United States Government, in discussing the adjustment of farm debts, has the following to say:

> "For many cases where present farm debts appear excessive, either the cause of the difficulty or the effective remedy may be largely outside the farm-debt field. Many apparently overindebted farmers may use inefficient farm management practices; their farm units may be the wrong size or the quality of soil may be poor and not suitable for the kind of farming they are trying to do; the families and the farms may not be adapted to each other; living expenses may be relatively high because of poor home management; any number of causes may reduce their income below the maximum which could be produced, or raise their expenses beyond reasonable limits."

These remarks apply with equal force to Western Canada.

Of the farms in Western Canada that are encumbered, many are able to meet and are meeting their obligations. A number are not producing sufficient to maintain the farmer and in these cases the amount of mortgage debt makes no difference, since these farmers would be in difficulty even if they had no debt. A percentage of farmers, as in every business and occupation, have ample ability to meet their obligations but do not do so. Some operate on too large a scale for their equipment, resources and ability. Taking all these factors into account, it follows that debt reduction legislation can help only a very small proportion of the total number of farmers in Western Canada.

Farming Hazards not Peculiar to the Prairies

It is often urged that peculiar and specialized western conditions make the lot of western farmers more difficult and uncertain than that of the farmers in the Maritimes, Quebec, Ontario and British Columbia, and that, for this reason, permanent mortgage debt adjustment machinery, having power to revise and reduce debts indefinitely or periodically, must be provided. This argument will not stand up under examination. For instance, the potato farmer in New Brunswick and Prince Edward Island is subject to just as many hazards as the western farmer. The contention that western agriculture is more hazardous is based on the assumption that all western farms are almost entirely dependent upon wheat production and are what are generally called "grain" farms. The production figures and the 1936 census classification of farm holdings disprove this. The majority of farms in Manitoba and Alberta are certainly not grain farms.

Manitoba farmers secured only 21.7% of their 1942 cash income from wheat; Saskatchewan farmers, 39.4%; and Alberta farmers, 24.2%. According to the 1936 census, 125,583 farms, or 42% of the total, are under 200 acres in size. These farms, comparable in size to eastern farms, should be considered as diversified farm units and as economic units are similar to mixed farms in Eastern Canada. Many of the larger farms are also engaged in mixed farming. There are 45,939 farms over 640 acres in size. These are essentially large-scale business enterprises.

Assets versus Debts

Great emphasis is placed on debts in Western Canada and there is a tendency to overlook the asset side of the balance sheet. Debts are heavy, or light, only in relation to the value of the debtor's assets and his income. A thousand dollar liability of one debtor may be relatively more difficult to carry than a $10,000 debt for another. The large assets of western farmers were created to a very large extent by reason of credit extended to them in the past and this credit is now represented by their debts.

Professor W. J. Waines of the University of Manitoba, in a study prepared for the Royal Commission on Dominion-Provincial Relations, estimated total farm debt in the prairie provinces at $806 millions at the end of 1937. This figure includes mortgage debt, relief advances, tax arrears, implement debt, bank debt, amounts owing to merchants, etc. As against this, assets of western farmers in the form of land, buildings, implement and livestock totalled more than $2,000 millions, according to the 1936 census. The situation today is even more favorable. Since 1937, western farm debt has been reduced and the assets of farmers have increased. Land values have risen, additional equipment has been purchased and livestock on farms has increased. Professor E. C. Hope of the Department of Farm Management, University of Saskatchewan, recently estimated Saskatchewan farm debt at $399 millions as against $482 millions at the end of 1937. The reduction in mortgage and agreement for sale debt he puts at 10%. The percentage decline in mortgage and agreement-for-sale debt in Manitoba and Alberta has been much higher.

More Than Ample Protection Already Exists

The request that the Dominion Government pass additional debt legislation apparently arises from the decision of the Privy Council holding the Alberta Debt Adjustment Act to be ultra vires. As a result there is the

impression in some quarters, since the Manitoba and Saskatchewan Debt Adjustment Acts are probably in the same category, that western farm debtors are left without protection from harsh creditors and without debt adjustment facilities. But what are the facts?

As far as real debt adjustment is concerned there has been no change. Ample provision for debt adjustment still exists and western farmers, in this regard, are just as well off as they were before the Privy Council decision. The provincial debt adjustment acts really provided only debt postponement, and not debt adjustment. They could force debt adjustment only indirectly. A Dominion statute, the Farmers' Creditors Arrangement Act, does, however, provide for the adjustment of debts and any Alberta or Saskatchewan farmer who has not had an adjustment under this Act can still secure its benefits.

No Increase in Foreclosures

Statements have appeared in the press suggesting that there has been a marked increase in foreclosure actions in Western Canada since the Supreme Court of Canada held the Alberta Debt Adjustment Act ultra vires in December, 1941. Except for Alberta, where there has been an increase for reasons peculiar to that province, this is not in accordance with the facts.

Hon. J. W. Estey, Saskatchewan Attorney-General, told the Saskatoon debt conference on February 26 that "there has been no increase in foreclosures. If anything, there has been an improvement in the situation." Foreclosures in Saskatchewan in 1940 numbered 753; 1941, 830; 1942, 741; and there has been no increase so far this year. Assuming that these are all farm cases, they affect only one-half of one per cent. of the farmers in Saskatchewan.

5,432 Manitoba Mortgages Discharged in 1942

Premier Stuart Garson of Manitoba, according to press reports, admitted that the problem is not acute in his province and that foreclosures are fewer than in the prosperous twenties. He gave the following figures of foreclosures in Manitoba: 395 in 1928, 397 in 1933; 128 in 1941; and 106 in 1942. Mortgages discharged in Manitoba increased from 3,369 in 1934 to 5,432 in 1942. In other words, fifty mortgages were discharged in Manitoba in 1942 for every one where foreclosure proceedings were taken; and less than one-fifth of one per cent. of the farms in Manitoba were affected by foreclosure actions.

The number of foreclosure actions commenced in Alberta has been higher than in the other two prairie provinces, but there are good reasons for this. Because of the way in which the Alberta Debt Adjustment Act was administered, creditors were barred from taking action against undeserving debtors. In a number of cases the provisions of the Alberta Limitation of Actions Act made it necessary for actions to be started in order to prevent claims from being outlawed. Furthermore, quite a number of debtors in Alberta, well able to pay, had been hiding behind the protection afforded by the Alberta Debt Adjustment Act to evade their obligations. In the 14 months ended January 31 last, 1,120 actions were commenced of which 1,033 were farm cases. Speaking in the Alberta Legislature on February 23, Hon. Lucien Maynard stated that 57 of these cases were commenced under permits granted by the Alberta Debt Adjustment Board and that no doubt in many other cases the proceedings were quite in order.

Alberta Borrowers Protected

Commencing action and proceeding to foreclosure are two different things. In many cases the actions are not carried to completion. One large lending institution commenced 75 foreclosure actions in Alberta in this 14 month period. Forty-four of the actions have been settled and only four properties have been actually foreclosed. The settlements arrived at in 44 cases indicate the actions were justified since they resulted in substantial cash payments and in some cases payment of the loan in full. This shows that some debtors in Alberta, though able to pay, tried to evade payment of their obligations.

There is no danger of any flood of foreclosures as the courts have ample powers to protect deserving borrowers. Under the Judicature Act in Alberta there is a statutory period of redemption of one year under orders made in foreclosure actions and the courts have the power to either **increase** or decrease the period.

In foreclosure actions in Saskatchewan the courts have the power to "grant or refuse to grant any order, stay the action, postpone payment of any moneys due, prescribe terms and conditions to which any order made shall be subject, vary or extend any order from time to time." This provision was contained in Section 15 of the Limitation of Civil Rights Act until this year's session of the Saskatchewan Legislature when it was transferred to a new statute, The Land Contracts (Actions) Act, 1943. This latter act places further restrictions on creditors. It provides that no foreclosure action can be commenced without leave of the Court of King's Bench.

The above does not by any means describe all the legislative protection still enjoyed by western farmers. For instance, under the Limitation of Civil Rights Act in Saskatchewan the right of a creditor to a share of a farmer's crop is greatly restricted. A farmer can first provide harvesting costs, farm maintenance, seeding for next spring and maintenance of his family at a reasonable standard of living before making payments on mortgage debts. This statute also restricts the right of action upon the personal covenant in mortgages and agreements for sale.

Borrowers Need Sound Mortgage Law

At the outset of this statement a broad outline was given of the legislation which has been proposed to the Dominion Government. If enacted, it would destroy western farm credit. It would also have very far reaching effects on existing farm mortgages in Western Canada. For all practical purposes it will mean that there is no such thing as a farm mortgage. Present and future mortgages and agreements for sale would be nothing more than a promise to pay, the amount and conditions of payment to be determined by a non-judicial tribunal from whose arbitrary decision there will presumably be no appeal as is the case under the Farmers' Creditors Arrangement Act.

The effect of the legislation would be to make all contracts with western farmers one-sided. A mortgage or other written contract would have little meaning. There would be little point in making a loan to a farmer by way of a mortgage or in selling a farm under an agreement for sale. The creditor or vendor would be bound, but the debtor or purchaser would not. No matter what contract was executed by the debtor, the creditor would have no security though he will have parted with his money or property. Such legislation would make mortgages a nullity and would in fact abolish mort-

gages by removing every vestige of the legal rights which have always characterized them.

Western farmers themselves would suffer from such legislation. Farmers desiring to retire would hesitate to sell their farms, except for all cash or with very substantial cash down payments. The risk of doing so would be too great for the amount and terms of payment would be uncertain. Would-be-purchasers, except those with substantial capital, would be unable to buy farms. This, in fact, is very much the situation which prevails today though existing debt legislation does not apply to new contracts. The reason for this is the fear that the legislation may be changed to apply to new as well as old contracts. It is now apparent that this fear is justified, the proof being the legislation which has been proposed to the Dominion Government. This proposed legislation would place restrictions on the rights of creditors under all contracts whether existing or future.

A tragic result of this situation is that young farmers find it difficult, and in many cases impossible, to buy farms. This situation would be made worse by the legislation now proposed. Few young men have sufficient savings to make a substantial cash payment on a farm and most people in Western Canada regard the risk of sale, except with such a cash payment, as too great. This is one reason why tenancy has increased.

Debt Adjustment Legislation Should be Curtailed

In view of the marked improvement in the position of western farmers, the debt adjustment facilities of the Farmers' Creditors Arrangement Act, and the more than adequate protection which western farm debtors enjoy under existing provincial legislation, the proposal for additional debt legislation is unwarranted. In fact, the time has arrived, not for further debt legislation which could only operate as a deterrent to the payment of debts, but when farmers should be urged and encouraged to pay their debts. The use of increased income by farmers to liquidate indebtedness will assist the anti-inflationary fight and enable agriculture to meet the problems of postwar reconstruction.

Existing debt legislation has gone a long way toward destroying the credit of western agriculture. It is in the interests of Western Canada that it be restored. Credit will be most important in the postwar period. The rapid development of the West was made possible by the availability of ample credit and credit will be essential to its future progress and expansion. But restoration of credit can only be brought about as it becomes clearly evident that a new attitude of mind exists with respect to repayment of obligations. To add to existing restrictive legislation, instead of assisting in that restoration, will have the effect of postponing it indefinitely.

Confidence and assurance that forward engagements of all kinds will be duly honoured is an essential part of every economic system. The entire social and economic fabric of the nation is based on this principle. This, of course, does not mean that there can be no adjustment of contracts which may turn out to be impossible of fulfillment. As a matter of fact creditors and debtors have since time immemorial negotiated adjustments of such contracts to their mutual satisfaction. The life insurance, trust and loan companies have always followed the policy of granting concessions to borrowers who through no fault of their own cannot meet their mortgage obligations. As far as western farm mortgages are concerned they have made voluntary adjustments in thousands of cases and written off millions of

dollars. For instance, under the 1936 voluntary debt adjustment plan for the drought area of Saskatchewan they wrote off approximately $19 millions. The policy of these companies has been to treat deserving borrowers fairly and generously. Adjustments will continue to be made in the future where there is need.

The life insurance, trust and loan companies are savings institutions. They are engaged in collecting the savings of individuals in all parts of the country, most of whom are persons of small means. The investment funds of these companies arise out of thrift. They have their origin in saving. In the final analysis, these funds represent the labour of men and women who converted their labour into capital and put a portion of it aside to take care of emergencies and to provide the necessities of life in old age.

Rights of Lenders Unreasonably Abridged

Some of the savings that several millions of Canadians have entrusted to the savings institutions which are members of this association for safe keeping and investment have been loaned on the security of farm mortgages, which the laws of Canada and its provinces recognize as "trustee" investments. Already existing provincial legislation and the Farmers' Creditors Arrangement Act have weakened the right of recovery under farm mortgages to the point that much of the security and safety under these "trustee" investments have disappeared. The enactment of the legislation asked for by the prairie provinces will destroy what little remains.

A far greater number of people entrust their savings to savings institutions for safekeeping than borrow from these companies. This is true of Western Canada as well as for the country as a whole. For instance, the life insurance companies have far more policyholders in Western Canada than they have borrowers. Reserves held for several policyholders are necessary to make up the amount loaned on an average mortgage. Unnecessary losses brought about by debt adjustment legislation comes out of the pockets of policyholders.

Debt adjustment legislation can only reduce farmers' debts by appropriating for the benefit of the farmer the rights, money and security of the creditors, persons who on the average are just as deserving as and no better off than farmers. It follows that care should be taken to protect creditors against abuses of the power vested in debt adjustment tribunals. One of the fundamental weaknesses of the Farmers' Creditors Arrangement Act has been the clothing of non-judicial tribunals with extraordinarily wide powers to take away the rights and property of citizens without right of appeal or other protection from our courts, decisions in this regard being reached on the basis of unsworn evidence. Experience of creditors shows that the Boards of Review act as if they feel that their powers are unlimited and their decisions follow no definite and recognizable principles of law or equity. This situation calls for correction in the interests of creditors, farmers and the welfare of the country. What is needed is a curtailment rather than an extension of debt legislation.

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